

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CONSUMER FRESH PRODUCE, INC.,)
)
Plaintiff,)
)
v.) Case No. 1:19-cv-109
)
SPC ERIE COUNTY FARMS, INC.,)
et al.,)
)
Defendants.)

MEMORANDUM ORDER

Plaintiff Consumer Fresh Produce, Inc. commenced this civil action on April 16, 2019 against SPC Erie County Farms, Inc.; Super Price Choppers Market, Inc., d/b/a SPC Erie County Farms (hereafter, “Super Price Choppers Market”); Super Price Chopper, Inc., d/b/a SPC Erie County Farms; Super Price Chopper Market, Inc., d/b/a SPC Erie County Farms; Robert Guenther (“Guenther”); Mushtaq Kaid (“Kaid”); and Hussein Awns (“Awns”). The gravamen of Plaintiff’s complaint was that the aforementioned Defendants breached their contractual duties and violated the Perishable Agricultural Commodities Act, 7 U.S.C. § 499a et seq., by failing to remit prompt payment for certain perishable agricultural commodities that Plaintiff sold and delivered to them. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation (“R&R”) in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules for Magistrate Judges.

At the present juncture, the lone remaining Defendant is Super Price Choppers Market. On February 7, 2020, Plaintiff filed a renewed motion for default judgment against Super Price Choppers Market, ECF No. [36], along with a supporting brief and affidavit. ECF Nos. 37 and 38; see also Compl. Exs. A and B, ECF No. 1. The motion and accompanying brief assert that,

despite Plaintiff having properly served process upon Super Price Choppers Market, this Defendant has not answered or otherwise responded to the Complaint as required by Fed. R. Civ. P. 12. The motion seeks judgment in the principal amount of \$83,318.33 plus interest in the amount of \$21,093.58 and attorneys' fees in the amount of \$36,222.57, for a total judgment amount of \$140,634.48. No response to the motion was filed.

On May 4, 2020, Judge Lanzillo issued an R&R recommending that Plaintiff's motion for default judgment be granted. ECF No. [39]. Objections to the R&R were due on or before May 18, 2020; however, no objections have been filed as of this date.

Accordingly, after *de novo* review of the complaint and documents in the case, together with Plaintiff's renewed motion for default judgment, supporting brief, affidavit, and the Magistrate Judge's report and recommendation, the following order is entered:

NOW, this 19th day of May, 2020;

IT IS ORDERED that the Plaintiff's renewed motion for default judgment against Super Price Choppers Market, Inc., d/b/a SPC Erie County Farms, ECF No. [36], shall be, and hereby is GRANTED. To that end, pursuant to Rule 55(b) and Rule 58 of the Federal Rules of Civil Procedure, JUDGMENT is hereby entered in favor of Plaintiff Consumer Fresh Produce, Inc., and against Super Price Choppers Market, Inc., d/b/a SPC Erie County Farms, under the trust provisions of Perishable Agricultural Commodities Act, 7 U.S.C. § 499e(c)(2), in the principal amount of \$83,318.33 plus interest in the amount of \$21,093.58 and attorneys' fees in the amount of \$36,222.57, for a total judgment amount of \$140,634.48.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on May 4, 2020, ECF No. [39], is adopted as the opinion of this Court.

There being no additional claims pending before the Court in the within civil action, the Clerk is directed to mark this case "CLOSED."

A handwritten signature in black ink, appearing to read "Susan Paradise Baxter", with a stylized, flowing script.

SUSAN PARADISE BAXTER
United States District Judge

cm: All counsel of record (via cm/ecf)

U.S. Magistrate Judge Richard A. Lanzillo (via cm/ecf)